

**IN THE DISTRICT COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. THOMAS AND ST. JOHN**

UNITED STATES OF AMERICA,

v.

CASE NO. 19-CR-00079

**IVAN JAMES,
KAI JAMES,
JOH WILLIAMS,
MALACHI BENJAMIN,
JAHKIEBO JOSEPH, and
ARIEL PETERSEN,**

Defendants.

**UNITED STATES' OPPOSITION TO DEFENDANT
IVAN JAMES' MOTION TO DISMISS INDICTMENT**

The United States of America, by and through Delia L. Smith, United States Attorney for the District of the Virgin Islands, files this opposition to Defendant Ivan James' Motion to Dismiss Indictment, docketed at ECF No. 619.

The defendant moves to dismiss the Third Superseding Indictment, based on a purported failure to comply with Federal Rule of Criminal Procedure 6(c). ECF No. 619. Specifically, he contends that "the foreperson of the indicting grand jury did not sign the indictment[.]" *Id.*

Rule 6(c) provides that:

The court will appoint one juror as the foreperson and another as the deputy foreperson. In the foreperson's absence, the deputy foreperson will act as the foreperson. The foreperson may administer oaths and affirmations and will sign all indictments. The foreperson--or another juror designated by the foreperson--will record the number of jurors concurring in every indictment and will file the record with the clerk, but the record may not be made public unless the court so orders.

Significantly, the foreperson did, in fact, sign the Third Superseding Indictment. Although it is not the practice in this district to publicly docket the page containing the grand jury

foreperson's signature, that signature should be on file in the Clerk's Office. *See, e.g., United States v. Blyden*, No. 2009-20, 2015 WL 11089736, at *2 n.1 (D.V.I. Sept. 3, 2015) ("Although the Court does not place the page signed by the grand jury foreperson on the docket, the Court does retain that page in its records. The Court has reviewed its records and determined that the indictment and superseding indictment were signed by the grand jury foreperson.").

Accordingly, the Court should deny the defendant's motion to Dismiss Indictment.

Respectfully submitted,

Dated: November 24, 2023

s/ Delia L. Smith
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